

Application No. 10/603,049
Response to Notice of Non-Compliant Amendment and
Corrected Amendment and Reply dated December 28, 2006
In Response to Notice of Non-Compliant Amendment Dated December 13, 2006

REMARKS

INTRODUCTION

Claims 51-64 are pending in the application. The Office Action dated September 19, 2006, rejected claims 51-64 under 35 U.S.C. § 102(e) as being anticipated by Reed (U.S. Published Patent Application No. 2003/0215956). The Office Action also rejected claims 51-64 under 35 U.S.C. § 102(e) as being anticipated by Madden et al. (U.S. Patent No. 6,783,732) and/or Bodner et al. (U.S. Patent No. 6,451,261).

Rejection of the Claims under 35 U.S.C. § 102(e)

In the Office Action at page 2, claims 51-64 are rejected under 35 U.S.C. § 102(e), as being anticipated by Reed (U.S. Published Application No. 2003/0215956). The Office Action asserts the following:

Reed discloses multi-well plates and column arrays in which samples (e.g., cell lysates containing nucleic acids of interest, such as RNA) can be analyzed and/or processed. In one embodiment, the microfiltration arrangement is a multilayer structure, including (i) a column plate having an array of minicolumns into which samples can be placed. Other disclosed features of the invention provide for the automated covering or heat-sealing of filtrate samples separately collected in an array of wells (abstract). In one embodiment, the method includes the steps of (i) picking up a clear heat-sealable sheet (optically clear film); (ii) placing the sheet over open upper ends of the wells; and (iii) pressing a conformable heated surface against the sheet, from a side opposite the collection tray, with sufficient pressure such that the sheet is heat-sealed to the collection tray over the open ends of the wells (paragraph 0073).

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The Office Action also asserts that the present invention contemplates real time fluorescence-based measurements of nucleic acid amplification producers (such as PCR) as described, for example, in PCT Publication WO 95/30139 and U.S. Patent Application No. 08/235,411, each of which is expressly incorporated in the application by reference. For the reasons set forth herein, Applicants respectfully traverse this rejection.

Claims 51 and 60 have been amended to even more particularly point out the various aspects of the claimed invention. In particular, the claimed substrate features a top surface and a flat bottom, and the vacuum does not reach to the top surface of the substrate when the substrate is in the substrate-holding area. Support for the amendments can be found, for example, in paragraphs [0137] and [0153], as well as in Figs. 11-13.

The claimed invention differs from what is taught or disclosed in Reed, in that Reed teaches a flow-through apparatus, where a vacuum source is adapted to create a vacuum that communicates through a multi-well plate, and to the top surface thereof, and thereby pull air and/or fluid through the filter elements of the multi-well plate. By allowing the vacuum to extend through the top surface of the multi-well plate, the vacuum does not create a sufficient force to secure the multi-well plate to the surrounding support. For that reason, Reed teaches the use of clamps 34 (see Fig. 3), to secure the multi-well plate in the device. The presently claimed invention does not require the use of clamps, because the vacuum communicates only with a bottom surface of the substrate, and thereby secures it to the substrate-holding area.

The presently claimed invention is neither taught nor suggested by Reed et al. Claims 52-59 and 61-67 depend from the amended independent claims, and should be allowable for the same.

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reasons. This rejection is respectfully traversed. Reconsideration and withdraw of the rejection are respectfully requested.

At page 4 of the Office Action, claims 51-64 are rejected under 35 U.S.C. § 102(e), as being anticipated by Madden et al. (6,783,732) and/or Bodner et al. (6,451,261). Madden et al. does not remedy the deficits of Reed et al., as discussed above, in that Madden et al. and Bodner et al. each disclose multi-well plates that allow for vacuum communication from a bottom surface, through the plate, and to a top surface thereof. Therefore, this rejection is traversed. Reconsideration and withdrawal of the rejection are respectfully requested.

CONCLUSION

In view of the foregoing, Applicants respectfully request favorable reconsideration of the present application and a timely allowance of the pending claims.

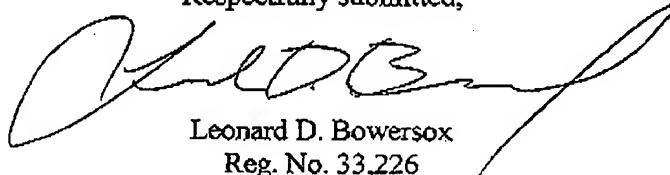
Should the Examiner deem that any further action by Applicants or Applicants' undersigned representative is desirable and/or necessary, the Examiner is invited to telephone the undersigned at the number set forth below.

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If there are any other fees due in connection with the filing of this response, please charge such fees to deposit Account No. 50-0925. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such extension is requested and should also be charged to said Deposit Account.

Respectfully submitted,



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